Supreme Court, U.S.
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No. 01-0990

In the
# Supreme Court of the United States

LEE YEAGER,
*Petitioner*,

v.

GENERAL MOTORS CORPORATION,
*Respondent*.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

## PETITIONER'S REPLY BRIEF

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## REPLY ARGUMENT

Seriatim, Petitioner replies to certain new points raised in Respondent's Brief in Opposition.

### STATEMENT OF THE CASE

### I. CLARIFICATION OF THE RECORD

At pp. 1-2 of its brief, Respondent claims that there is no record support for Petitioner's assertions that it "has maintained fixed percentages of minorities and women ... in its apprentice selection process;" and that before hiring, "it conducts a 'race' and 'sex' analysis" to ensure that its hirees "will include enough minorities and females to meet its perceived 'affirmative action' percentage requirements."

In fact, those percentages, aka "Track I Goals," were fixed at "15.5% minorities" and "12% women" minimums by the 1983 Conciliation Agreement that expired 12/31/88 [*Plott v. General Motors Corp.*, 71 F.3d 1190, Sect. I.A. (6th Cir. 1995); and GM Response to Ohio Civil Rights Commission's ("OCRC") First Request for Admissions in *In Re General Motors Corp.*, Case No. 8157 - pp. A317-318 in Joint Apx, below ("JA")]; and have been consistently maintained throughout all times relevant to this action. For example, although noting "Track I expiration" at the GM-UAW Nat'l Apprentice Conference held in Atlanta, GA on 10/1-3/97, a joint apprentice committee principal observed that, "We do live under Track I and will continue to do so." [JA A-996]. The following year, that same committee's newsletter, "UAW-GM People," noted:

> "A continuing goal of the Apprentice Program is to increase the number of women and

> minority apprentices. The program has been exceeding its goal that local apprentice groups include at least 12 percent women and 15.5 percent from minority populations." [JA A-554].

The numerical predicate for conducting the Preapprentice Training Program ("PATP") found at p. 10.3 of Respondent's Standard Apprentice Plan Selection Program Administrator's Manual ("Administrator's Manual") [JA A-876]:

> "In cases where potential deficiencies exist for either minority or female applicants...the Apprentice Committee should request the GM-UAW Skilled Trades and Apprentice Committee to authorize pre-apprentice training for such candidates." (Emphasis added)

## II. YEAGER'S CLAIMS

With allusion to p. 3 of Respondent's brief, there is nothing "occasional" about the frequency of its "targeting" employment practice. As a very component of the initial selection process, Targeting is conducted in connection with each and every random draw for new apprentice applicants. Administrator's Manual, p. 3.4 [JA A-801].

Petitioner takes umbrage with Respondent's p. 3 characterization of his own apprentice scores as "extremely low." In fact, Petitioner's "33" test score was well above the "25" national average [JA A-898], while his "27" interview score was "outstanding" according to Respondent's Interview Evaluation Summary [JA A-926].

Finally, the notion that Petitioner was excluded from consideration for apprenticeship at Respondent's Lordstown Assembly Plant in 1996 "prior to any affirmative action," misleads the reader. In fact, because of his race and sex, Petitioner had theretofore been persona non grata for PATP at Lordstown Assembly in 1991 and 1993 [Petition, p. 5], as a result of which he was not only prevented from PATP-ascending on the apprentice selection lists but, by virtue of the PATP-enhanced scores of certain minorities and women, actually descended on those lists for selection at Assembly in 1996.

## CONCLUSION

For these additional reasons, the Court should grant the Petition.

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